IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

NOTICE OF MOTION NO.572 OF 2006
IN
CENTRAL EXCISE APPEAL (L) NO. 67 OF 2006

M/s.Kelkar Trading Corporation
and another .. Appellants
v/s.
The Commissioner of Central Excise,
Mumbai-V .. Respondent

Mr.Prakash Shah with Mr.Bharat Raichandani i/by M/s.PDS Legal for the appellants.

CORAM : R.M. LODHA &
J.P.DEVADHAR, JJ.

DATED : 31ST MARCH, 2006.

P.C.

By this notice of motion, the appellants pray for condonation of delay in filing the appeal from the order dated 17.6.2005 passed by the Customs, Excise and Service Tax Appellate Tribunal, West Zonal Bench, Mumbai. The appeal suffers from delay of 60 days. In the affidavit in support of the notice of motion, the explanation for delay has been set forth in paragraph 4 that reads thus-

> "4. The Appellants received a certified copy of the order dated 17th June, 2005 passed by the Hon'ble Appellate Tribunal on 25th June, 2005. The Appellants filed the above Appeal on 20th February, 2006. I say that the Appellants were under a bonafide impression that the Appellate Tribunal had remanded the proceedings to the adjudicating authority and they realised that the

> order is adverse to them only when they approached the present advocates for refund of amount deposited by them during the investigation. I further say that due to my ill health I was not able to speak to my present lawyers within time."

2. Though the notice of motion has been served on the revenue, nobody appears to oppose the motion.

3. For the reasons stated in paragraph 4 of the affidavit in support of the notice of motion as noticed above, we are satisfied that the appellants were prevented by sufficient cause in filing the appeal belatedly.

4. We condone the delay. Office is directed to process the appeal and post it for admission as soon as numbered.

Notice of motion stands disposed of.

(R.M.LODHA, J.)

(J.P.DEVADHAR, J.)